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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 16, 2024

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

EUGENE KLIWER,

No. 2:24-cv-00290-SAB

Petitioner,

v.

**ORDER DISMISSING HABEAS
CORPUS PETITION**

JASON BENNETT,

Respondent.

On November 6, 2024, Petitioner Eugene Kliewer was ordered to show cause why his *pro se* Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 should not be dismissed due to his failure to exhaust state court remedies and as a proper exercise of abstention under *Younger v. Harris*, 401 U.S. 37 (1971). Petitioner is in custody pursuant to a judgment of a state court and is currently housed at the Stafford Creek Corrections Center.¹ ECF No. 1 at 1. Petitioner is proceeding *in forma pauperis*. Respondent has not been served.

¹ As discussed in this Court's Order to Show Cause, Petitioner is in custody pursuant to a judgment of a State court, and he appears to be challenging the constitutionality of his detention. ECF No. 1 at 1–2, 6. Thus, his habeas petition must be brought under 28 U.S.C. § 2254. *See* ECF No. 11 at 2.

ORDER DISMISSING HABEAS CORPUS PETITION # 1

1 In the Order to Show Cause, the Court cautioned Petitioner that his failure to
2 show cause why this action should not be dismissed for failure to exhaust state
3 court remedies and as a proper exercise of abstention under the *Younger* doctrine
4 would be construed as his consent to the dismissal of this action. ECF No. 11 at 6.
5 Petitioner did not respond to the Order to Show Cause within thirty days as
6 directed and has filed nothing further in this action.

7 Accordingly, for the reasons set forth in the Order to Show Cause, ECF No.
8 11 at 2–6, **IT IS ORDERED** that the Petition, ECF No. 1, is **DISMISSED**
9 **without prejudice** for failure to exhaust state court remedies and as a proper
10 exercise of abstention under the *Younger* doctrine.

11 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
12 **enter judgment**, forward copies to Petitioner, and **CLOSE** the file. The Court
13 further certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this
14 decision could not be taken in good faith, and there is no basis upon which to issue
15 a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

16 **DATED** this 16th day of December 2024.



20 Stanley A. Bastian

21 Stanley A. Bastian
22 Chief United States District Judge
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